

**ASSEMBLY BILL**

**No. 397**

**Introduced by Assembly Member Chavez**

February 11, 2005

---

An act to amend Section 12814.6 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 397, as introduced, Chavez. Provisional licensing program.

(1) Existing law, the Brady-Jared Teen Driver Safety Act of 1997, allows for the issuance of a driver's license to a person at least 16 years of age but under 18 years of age under the provisional licensing program if that person, among other requirements, satisfactorily completes 1 of 3 alternative education and training requirements. Under the 2nd and 3rd alternatives, a person must, among other things, satisfactorily complete 6 hours or more of behind-the-wheel training. Additionally, as to the 3rd alternative the person must satisfactorily complete either an accredited course in automobile driver education in any secondary school of California under the Education Code or equivalent professional instruction acceptable to the department.

This bill would revise the 2nd and 3rd educational and training alternatives by requiring a person to complete 10 hours, rather than 6 hours, of behind-the-wheel training. As to the 3rd alternative, the bill would revise the course requirements to require a person to successfully complete a course in automobile driver education that consists of the curriculum used and developed for a designated statutorily created pilot project, including any modifications to that curriculum that are approved by the department.

This bill would additionally require a person under the provisional licensing program to satisfactorily complete a specified crash avoidance training program at the driving school where the person received his or her behind-the-wheel training.

(2) Under the act, except as specified, during the first 12 months after the issuance of a provisional driver's license, the licensee is prohibited from driving between the hours of 12 midnight and 5 a.m., and during the first 6 months after issuance, the licensee is prohibited from transporting passengers who are under 20 years of age, unless in either situation the licensee is accompanied and supervised by a licensed driver who is the licensee's parent or guardian, a licensed driver who is 25 years of age or older, or a licensed or certified driving instructor.

This bill would, instead, provide that during the first 12 months after issuance of a provisional driver's license, the licensee is prohibited from driving between the hours of 11 p.m. and 5 a.m. and is prohibited from transporting passengers who are under 20 years of age, unless in either situation the licensee is accompanied and supervised as currently provided or an existing exception applied.

Because these changes would expand the scope of existing crimes, including the crime of perjury, the bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares the  
2 following:

3 (a) The National Safety Council reports that 58 percent of new  
4 drivers have a police-reported collision within the first year of  
5 driving. Over 80 percent of teens have a police-reported collision  
6 in the first three years of driving. Teaching teens collision

1 avoidance skills has been proven to significantly reduce the  
2 number of teen collisions.

3 (b) The National Transportation Safety Board (NTSB) has  
4 determined that teen motor vehicle collisions are caused by the  
5 following six primary factors: lack of adequate training in the  
6 skills of visual search, hazard detection, risk perception, speed  
7 control, space management, and teen lifestyle issues.

8 (c) The NTSB recommend that those responsible for driver's  
9 education throughout the United States, including professional  
10 driving schools and public high school driver education  
11 instructors, "while continuing to teach the current curriculum,  
12 develop and include additional curriculum that increases collision  
13 avoidance skills."

14 (d) The Department of Motor Vehicles' Evaluation of  
15 California's Graduated Licensing Program published in May  
16 2003 makes reference to a multistage provisional licensing  
17 process for teens structured to provide a basic driver education  
18 course before teens learn how to drive and an advanced course  
19 after the teens have gained some experience driving on the road.  
20 More complex topics, including, but not limited to, hazard  
21 detection and accident avoidance, can be more effectively taught  
22 in the advanced course where experience on the road makes these  
23 topics more understandable.

24 SEC. 2. Section 12814.6 of the Vehicle Code is amended to  
25 read:

26 12814.6. (a) Except as provided in Section 12814.7, a  
27 driver's license issued to a person at least 16 years of age but  
28 under 18 years of age shall be issued pursuant to the provisional  
29 licensing program contained in this section. The program shall  
30 consist of all of the following components:

31 (1) Upon application for an original license, the applicant shall  
32 be issued an instruction permit pursuant to Section 12509. A  
33 person who has in his or her immediate possession a valid permit  
34 issued pursuant to Section 12509 may operate a motor vehicle,  
35 other than a motorcycle or motorized bicycle, only when the  
36 person is either taking the driver training instruction referred to  
37 in paragraph (3) or practicing that instruction, provided the  
38 person is accompanied by, and is under the immediate  
39 supervision of, a California licensed driver 25 years of age or  
40 older whose driving privilege is not on probation. The age

1 requirement of this paragraph does not apply if the licensed  
2 driver is the parent, spouse, or guardian of the permitholder or is  
3 a licensed or certified driving instructor.

4 (2) The person shall hold an instruction permit for not less  
5 than six months prior to applying for a provisional driver's  
6 license.

7 (3) The person shall have complied with one of the following:

8 (A) ~~Satisfactory~~(i) *Satisfactory* completion of approved  
9 courses in automobile driver education and driver training  
10 maintained pursuant to provisions of the Education Code in any  
11 secondary school of California, or equivalent instruction in a  
12 secondary school of another state.

13 (ii) *For the purposes of clause (i), an approved course in*  
14 *automobile driver education means the model driver education*  
15 *curriculum developed by the department under subdivision (f) of*  
16 *former Section 12814.8 of the Vehicle Code, or subsequent*  
17 *modifications approved by the department.*

18 (B) Satisfactory completion of an integrated driver education  
19 and training program that is approved by the department and  
20 conducted by a driving instructor licensed under Chapter 1  
21 (commencing with Section 11100) of Division 5. The program  
22 shall utilize segmented modules, whereby a portion of the  
23 educational instruction is provided by, and then reinforced  
24 through, specific behind-the-wheel training before moving to the  
25 next phase of driver education and training. The program shall  
26 contain a minimum of 30 hours of classroom instruction and ~~six~~  
27 10 hours of behind-the-wheel training.

28 (C) Satisfactory completion of ~~six~~ 10 hours or more of  
29 behind-the-wheel instruction by a driving school or an  
30 independent driving instructor licensed under Chapter 1  
31 (commencing with Section 11100) of Division 5 and ~~either an~~  
32 ~~accredited course in automobile driver education in any~~  
33 ~~secondary school of California pursuant to provisions of the~~  
34 ~~Education Code or satisfactory completion of equivalent~~  
35 ~~professional instruction acceptable to the department. To be~~  
36 ~~acceptable to the department, the professional instruction shall~~  
37 ~~meet minimum standards to be prescribed by the department, and~~  
38 ~~the standards shall be at least equal to the requirements for driver~~  
39 ~~education and driver training contained in the rules and~~  
40 ~~regulations adopted by the State Board of Education pursuant to~~

~~the Education Code~~ the model driver education curriculum developed by the department under subdivision (f) of former Section 12814.8 of the Vehicle Code, or subsequent modifications approved by the department. A person who has complied with this subdivision shall not be required by the governing board of a school district to comply with subparagraph (A) in order to graduate from high school.

(D) Except as provided under subparagraph (B), a student may not take driver training instruction, unless he or she has successfully completed driver education.

(4) The person shall complete 50 hours of supervised driving practice prior to the issuance of a provisional license, which is in addition to any other driver training instruction required by law. Not less than 10 of the required practice hours shall include driving during darkness, as defined in Section 280. Upon application for a provisional license, the person shall submit to the department the certification of a parent, spouse, guardian, or licensed or certified driving instructor that the applicant has completed the required amount of driving practice and is prepared to take the department's driving test. A person without a parent, spouse, guardian, or who is an emancipated minor, may have a licensed driver 25 years of age or older or a licensed or certified driving instructor complete the certification. This requirement does not apply to motorcycle practice.

(5) *Following the satisfactory completion of the requirements described in paragraphs (3) and (4), the student shall return to the driving school that conducted the student's behind-the-wheel training to complete the following crash avoidance instruction:*

(A) *Satisfactory completion of a four hour classroom defensive driving course as preparation for behind-the-wheel crash avoidance instruction.*

(B) *Satisfactory completion of six hours of the following crash avoidance training skills:*

(i) *Visual search.*

(ii) *Hazard detection.*

(iii) *Risk perception.*

(iv) *Speed control.*

(v) *Space management.*

(vi) *Lifestyle issues that include, but are not limited to, the use of alcohol and drugs and risky in-car behavior.*

1 (C) A driving school offering the instruction described in  
2 subparagraphs (A) and (B) shall do both of the following:

3 (i) File lesson plans with the department describing the  
4 instruction to be taught.

5 (ii) The school owner shall certify to the department under  
6 penalty of perjury that its school instructors teaching the crash  
7 avoidance training have completed at least 2000 hours of  
8 behind-the-wheel instruction and are qualified to teach the  
9 advanced driving skills described in subparagraphs (A) and (B).

10 (D) Driving school instructors who determine that a student is  
11 not properly prepared for crash avoidance training shall refer  
12 the student to his or her parent or other person described in  
13 paragraph (4) for additional driving practice time.

14 (6) The person shall successfully complete an examination  
15 required by the department. Before retaking a test, the person  
16 shall wait for not less than one week after failure of the written  
17 test and for not less than two weeks after failure of the driving  
18 test.

19 (b) Except as provided in Section 12814.7, the provisional  
20 driver's license shall be subject to all of the following  
21 restrictions:

22 (1) Except as specified in paragraph ~~(3)~~ (2), during the first ~~six~~  
23 12 months after issuance of a provisional license the licensee  
24 may not do any of the following unless accompanied and  
25 supervised by a licensed driver who is the licensee's parent or  
26 guardian, a licensed driver who is 25 years of age or older, or a  
27 licensed or certified driving instructor:

28 (A) Drive between the hours of ~~12 midnight~~ 11 p.m. and 5  
29 a.m.

30 (B) Transport passengers who are under 20 years of age.

31 ~~(2) During the second six months after issuance of a~~  
32 ~~provisional license the licensee may transport passengers under~~  
33 ~~the age of 20 years between the hours of 5 a.m. and 12 midnight~~  
34 ~~without supervision. This driving time restriction may not modify~~  
35 ~~or alter any local ordinance that restricts or prohibits cruising~~  
36 ~~during specified proscribed hours. However, the restriction~~  
37 ~~imposed under subparagraph (A) of paragraph (1) shall continue~~  
38 ~~to apply during this period.~~

39 ~~(3) A licensee may drive between the hours of 12 midnight 11~~  
40 ~~p.m. and 5 a.m. or transport an immediate family member~~

1 without being accompanied and supervised by a licensed driver  
2 who is the licensee's parent or guardian, a licensed driver who is  
3 25 years of age or older, or a licensed or certified driving  
4 instructor, in the following circumstances:

5 (A) Medical necessity of the licensee when reasonable  
6 transportation facilities are inadequate and operation of a vehicle  
7 by a minor is necessary. The licensee shall keep in his or her  
8 possession a signed statement from a physician familiar with the  
9 condition, containing a diagnosis and probable date when  
10 sufficient recovery will have been made to terminate the  
11 necessity.

12 (B) Schooling or school-authorized activities of the licensee  
13 when reasonable transportation facilities are inadequate and  
14 operation of a vehicle by a minor is necessary. The licensee shall  
15 keep in his or her possession a signed statement from the school  
16 principal, dean, or school staff member designated by the  
17 principal or dean, containing a probable date that the schooling or  
18 school-authorized activity will have been completed.

19 (C) Employment necessity of the licensee when reasonable  
20 transportation facilities are inadequate and operation of a vehicle  
21 by a minor is necessary. The licensee shall keep in his or her  
22 possession a signed statement from the employer, verifying  
23 employment and containing a probable date that the employment  
24 will have been completed.

25 (D) Necessity of the licensee or the licensee's immediate  
26 family member when reasonable transportation facilities are  
27 inadequate and operation of a vehicle by a minor is necessary to  
28 transport the licensee or the licensee's immediate family  
29 member. The licensee shall keep in his or her possession a signed  
30 statement from a parent or legal guardian verifying the reason  
31 and containing a probable date that the necessity will have  
32 ceased.

33 (E) The licensee is an emancipated minor.

34 (c) A law enforcement officer may not stop a vehicle for the  
35 sole purpose of determining whether the driver is in violation of  
36 the restrictions imposed under subdivision (b).

37 (d) (1) Upon a finding that any licensee has violated  
38 paragraph (1) ~~or (2)~~ of subdivision (b), the court shall impose one  
39 of the following:

1 (A) Not less than eight hours nor more than 16 hours of  
2 community service for a first offense and not less than 16 hours  
3 nor more than 24 hours of community service for a second or  
4 subsequent offense.

5 (B) A fine of not more than thirty-five dollars (\$35) for a first  
6 offense and a fine of not more than fifty dollars (\$50) for a  
7 second or subsequent offense.

8 (2) If the court orders community service, the court shall retain  
9 jurisdiction until the hours of community service have been  
10 completed.

11 (3) If the hours of community service have not been completed  
12 within 90 days, the court shall impose a fine of not more than  
13 thirty-five dollars (\$35) for a first offense and not more than fifty  
14 dollars (\$50) for a second or subsequent offense.

15 (e) A conviction of paragraph (1) ~~or (2)~~ of subdivision (b),  
16 when reported to the department, may not be disclosed as  
17 otherwise specified in Section 1808 or constitute a violation point  
18 count value pursuant to Section 12810.

19 (f) Any term of restriction or suspension of the driving  
20 privilege imposed on a person pursuant to this subdivision shall  
21 remain in effect until the end of the term even though the person  
22 becomes 18 years of age before the term ends.

23 (1) The driving privilege shall be suspended when the record  
24 of the person shows one or more notifications issued pursuant to  
25 Section 40509 or 40509.5. The suspension shall continue until  
26 any notification issued pursuant to Section 40509 or 40509.5 has  
27 been cleared.

28 (2) A 30-day restriction shall be imposed when a driver's  
29 record shows a violation point count of two or more points in 12  
30 months, as determined in accordance with Section 12810. The  
31 restriction shall require the licensee to be accompanied by a  
32 licensed parent, spouse, guardian, or other licensed driver 25  
33 years of age or older, except when operating a class M vehicle, or  
34 so licensed, with no passengers aboard.

35 (3) A six-month suspension of the driving privilege and a  
36 one-year term of probation shall be imposed whenever a  
37 licensee's record shows a violation point count of three or more  
38 points in 12 months, as determined in accordance with Section  
39 12810. The terms and conditions of probation shall include, but  
40 not be limited to, both of the following:



1 (A) The person shall violate no law which, if resulting in  
2 conviction, is reportable to the department under Section 1803.

3 (B) The person shall remain free from accident responsibility.

4 (g) Whenever action by the department under subdivision (f)  
5 arises as a result of a motor vehicle accident, the person may, in  
6 writing and within 10 days, demand a hearing to present evidence  
7 that he or she was not responsible for the accident upon which  
8 the action is based. Whenever action by the department is based  
9 upon a conviction reportable to the department under Section  
10 1803, the person has no right to a hearing pursuant to Article 3  
11 (commencing with Section 14100) of Chapter 3.

12 (h) The department shall require a person whose driving  
13 privilege is suspended or revoked pursuant to subdivision (f) to  
14 submit proof of financial responsibility as defined in Section  
15 16430. The proof of financial responsibility shall be filed on or  
16 before the date of reinstatement following the suspension or  
17 revocation. The proof of financial responsibility shall be  
18 maintained with the department for three years following the date  
19 of reinstatement.

20 (i) (1) Notwithstanding any other provision of this code, the  
21 department may issue a distinctive driver's license, that displays  
22 a distinctive color or a distinctively colored stripe or other  
23 distinguishing characteristic, to persons at least 16 years of age  
24 and older but under 18 years of age, and to persons 18 years of  
25 age and older but under 21 years of age, so that the distinctive  
26 license feature is immediately recognizable. The features shall  
27 clearly differentiate between drivers' licenses issued to persons at  
28 least 16 years of age or older but under 18 years of age and to  
29 persons 18 years of age or older but under 21 years of age.

30 (2) If changes in the format or appearance of drivers' licenses  
31 are adopted pursuant to this subdivision, those changes may be  
32 implemented under any new contract for the production of  
33 drivers' licenses entered into after the adoption of those changes.

34 (j) The department shall include, on the face of the provisional  
35 driver's license, the original issuance date of the provisional  
36 driver's license in addition to any other issuance date.

37 (k) This section shall be known and may be cited as the  
38 Brady-Jared Teen Driver Safety Act of 1997.

39 SEC. 3. No reimbursement is required by this act pursuant to  
40 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school  
2 district will be incurred because this act creates a new crime or  
3 infraction, eliminates a crime or infraction, or changes the  
4 penalty for a crime or infraction, within the meaning of Section  
5 17556 of the Government Code, or changes the definition of a  
6 crime within the meaning of Section 6 of Article XIII B of the  
7 California Constitution.

O